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| EXAMINER | |
|---|---|
| LEONARD, MICHAEL L | |

| ART UNIT | PAPER NUMBER |
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| 1796 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**DETAILED RESPONSE**

The rejection is maintained. The applicants' argued over the prior art rejections from Lennslag et al. (U.S. Patent 6,433,034) and Blum et al. (U.S. Patent 5,331,039) because the prior art patents disclose a batch process, instead of a continuous mixing process, for the mixing of two separate polyols, including a polymer polyol, before adding the mixed polyol components to a polyisocyanate to form a polyurethane final product. The applicants' tried to establish a rebuttal on the prima facie case of obviousness as exemplified by the examiner, who showed that the court has upheld that a claimed continuous operation would have been obvious in light of the batch process of the prior art. (See In re Dilnot, 319 F.2d 188, 138 USPQ 248, Office Action, Page 3). The highlighted side-by-side data that appeared on page 9, Table 1 of the applicants' specification that showed an improvement of properties for the final polyurethane product is convincing in terms of comparing continuous and batchwise metering in of polyols. However, the data is not persuasive because it's not commensurate in scope with the claims. The claims highlight a process for mixing polyols continuously. The data shows the physical effects of mixed polyols in the production of polyurethane foams and the physical properties of the polyurethane foams. As a result, the mixing of polyols whether it is continuous or batchwise is not highlighted by Table 1 because the data is only based off of one mixture of polyols. A better comparison would be to show at least 3 to 4 different mixtures of polyols in a side-by-side comparison from a batchwise and continuous standpoint that would enable a person of ordinary skill in the art to better see the effects of the mixing procedure as highlighted by the claims.

Furthermore, claim 11 can be limited to the mixture of certain polyols, the graft polyol and the polyether polyol of examples 1 and 2 because a person of ordinary skill in the art would be unsure if the data as presented is a result of the mixing process or of the selection of polyols.

The data does not show enough of a comparison that would enable one of ordinary skill in the art to withdraw a rejection that was established to show a prima facie case of obviousness that shows that a batchwise or separate metering of the polyols as disclosed by the prior art and a continuous metering of polyols as disclosed by the instant application is different and that would be commensurate in scope with the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL LEONARD whose telephone number is (571)270-7450. The examiner can normally be reached on Mon-Fri 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MICHAEL LEONARD/
Examiner, Art Unit 1796